

Emoji Company GmbH,

Plaintiff,

Civil Action No.: 20-cv-4874

v.

SCHEDULE "A"

Defendant.

FILED TL
10/8/2020
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Response to the Plaintiff's complaint

The defendant requests to suspend the trial of this case and release the defendant's account. The reasons are as follows:

1. plaintiff has no adequate evidence to prove defendant infringed his emoji trademark, the following picture is the plaintiff's unique evidence. As we can see below, defendant just used "emoji" to describe his product, The theme of this cartoon image corresponds to the "emoji", "emoji" is not a word originally created by the right holder, it belongs to the common name in the expression field like "Emoticons", and it is being used by thousands of Internet users. The defendant's action complies with the 15 U.S.C. § 1115(b) on fair use.

Toys & Games > Stuffed Animals & Plush Toys > Plush Pillows



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2. The plaintiff failed to serve legal documents in accordance with due legal procedures. Until now, defendant does not receive relevant legal documents such as summons, temporary injunction order, preliminary injunction order, etc. Plaintiff let defendant himself see on pacer, however, the defendant, as a Chinese seller instead of a lawyer in the United States, was unable to register an account on the pacer, so he could not log in to see the case information, the defendant does not even know the stage of development of the case. Defendant has been working to contact plaintiff to resolve the case, but the plaintiff did not respond to the defendant for a long time on the grounds of servers' malfunction or other reasons.

3. Therefore. Given that plaintiff did not provide adequate evidence or follow due process of serve of legal process, defendant implore the court to dismiss the plaintiff's claim and release the defendant's account.

DATED: October 6, 2020

Respectfully submitted,

Jesun

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AGENT FOR DEFENDANT

Seller Name	Seller Origin	Company or individual	Address
SAQIMA	A159YMHZNAXJLK	Shen Zhen shi hui yang Jian she gong cheng you xian gong si	Long gang qu long cheng jie dao shang Jing she qu Long Cheng zhong lu 108 hao zheng zhong shi dai da Sha 807-8 Shen zhen shi Guang Dong